

# **EXHIBIT F**

11T52383(F)  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

-----X  
THOMAS M. MOROUGHAN,

Index #CV-12-0512

Plaintiff,

**AFFIDAVIT**

-against-

THE COUNTY OF SUFFOLK,  
SUFFOLK COUNTY POLICE DEPARTMENT,  
SUFFOLK DETECTIVES RONALD TAVARES,  
CHARLES LESER, EUGENE GEISSINGER,  
NICHOLAS FAVATTA, and ALFRED CICCOTTO,  
DETECTIVE/SGT. WILLIAM J. LAMB,  
SGT. JACK SMITHERS, SUFFOLK POLICE OFFICERS  
WILLIAM MEANEY, ENID NIEVES,  
CHANNON ROCCHIO, and JESUS FAYA and SUFFOLK  
JOHN DOES 1-10, THE COUNTY OF NASSAU,  
NASSAU COUNTY POLICE DEPARTMENT,  
SGT. TIMOTHY MARINACI, DEPUTY CHIEF OF  
PATROL JOHN HUNTER, INSPECTOR EDMUND HORACE,  
COMMANDING OFFICER DANIEL FLANAGAN,  
DETECTIVE/SGT. JOHN DEMARTINIS,  
NASSAU POLICE OFFICERS EDWARD BIENZ  
and JOHN DOES 11-20,

Defendants.

-----X  
STATE OF NEW YORK )  
                                  :  
COUNTY OF NASSAU )

**LESLI P. HILLER**, being duly sworn deposes and says:

1. I am an attorney licensed to practice law in the State of New York and am employed as a police attorney by the Nassau County Police Department (NCPD).

2. I was the attorney who presented the disciplinary hearing against Police Officer Anthony DiLeonardo at the NCPD Departmental Hearing. The title of the action was in The Matter of the Disciplinary Action: Police Department County of Nassau against Anthony DiLeonardo Police Officer Serial #9013.

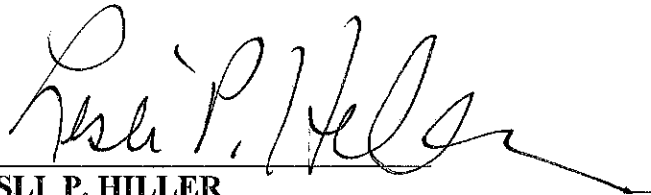
3. The case was heard by Hearing Officer Inspector Michael Studdert on three dates March 10, 2014, March 11, 2014 and March 19, 2014.

4. At the hearing the only person who testified was Detective Sergeant Jo Ann Distler, a member of the Nassau County Police Department Internal Affairs Unit (IAU). Detective Sergeant Distler was one of the IAU detectives who investigated this case.

5. The evidence presented at the hearing consisted of the sworn testimony of Detective Sergeant Distler; portions of the NCPD IAU report (IAU 27-2011) including photographs contained therein; portions of the NCPD Police Department Manual concerning Uniforms and Equipment; the Curriculum Vitae of George G. Krivostov (copy attached); the affidavit of JoAnn Distler; an Expert Witness Report submitted by counsel for Officer DiLeonardo; and, a copy of the Charges and Specifications (copy annexed).

6. The respondent Police Officer DiLeonardo did not testify at the hearing and no witnesses were called on his behalf.

Dated: Mineola, New York  
August 13, 2014



**LESLI P. HILLER**  
Counsel for Nassau County Police Department

Sworn to this  
13<sup>th</sup> day of August, 2014

  
\_\_\_\_\_  
Notary Public

**CHRISTOPHER F. BELLISRI**  
Notary Public, State of New York  
No. 02BE6130622  
Qualified in Queens County  
Commission Expires July 18, 2017

Curriculum vitae  
**GEORGE G. KRIVOSTA**  
Forensic Scientist / Ballistic Consultant  
37 Fifty Acre Road South  
Smithtown, New York 11787-2010  
(631) 360-8839  
E-MAIL: Kriv5@aol.com

**EDUCATION:**

1972 - 1974 John Jay College of Criminal Justice,  
City University of New York  
445 West 56th Street, New York, N.Y.  
Bachelor of Science : Forensic Science

1969 - 1972 Suffolk County Community College  
College Road; Selden, N.Y.  
Associate in Science : Physical Sciences

1966 - 1969 Brooklyn Technical High School  
DeKalb & Fort Greene Avenues; Brooklyn, N.Y.  
Graduated : Electronics

**EXPERIENCE:**

1991 to Present Private consultant performing firearm and toolmark examinations in criminal and civil cases.

September 1974 to Present **SUFFOLK COUNTY CRIME LABORATORY**  
Division of Medical Legal Investigations & Forensic Sciences  
Building #487; North County Complex  
Veterans Memorial Highway  
Hauppauge, N.Y. 11787-4311  
(631) 853-5585  
Fax (631) 853-5739

**Current Position : Forensic Scientist IV/ Firearm Unit Section Chief**

**Duties :** As a laboratory section chief to: supervise and train personnel; research and standardize techniques; service and evaluate equipment; assign and review work; issue and cause to be issued reports; give expert testimony at a variety of legal proceedings; performing all technical and supervisory duties relative to the field of forensic firearms, toolmark, and crime scene examination.

**Examinations include :** Firearm and (other misc. weapons including Tasers and fired components) identification and operability; ammunition and expended component identification and microscopic comparison; multi-jurisdictional Open Case comparisons using the NIBIN/IBIS or DRUGFIRE systems; restoration of obliterated manufacturers markings; muzzle to garment or victim distance determination; bullet trajectory and shooting crime scene reconstruction's; all forms of impressed and striated toolmark identification and microscopic comparison. Examinations are performed using the following equipment: Forensic Ballistic Comparison Microscopes, Toolmakers Microscopes, Stereo Microscopes, DRUGFIRE/National Integrated Ballistic Identification Network, NIBIN/IBIS, Crime Laboratory Information Service/General Rifling Characteristics File computer database, Calipers, Micrometers, and Chronographs.

**Qualified as an expert :** U.S. Federal District Courts : Colorado (*Oklahoma City Bombing Case*, U.S. v. Terry Nichols), Eastern District of New York (*New York City Area Shootings v. The Gun Manufacturers*, Hamilton Etal v. Accu-tek Etal) (Gary Busch et al v. City of New York et al), Southern District of New York; New York State Supreme Courts : Criminal, Family, and Civil Parts in Suffolk County, Criminal & Civil Parts in Nassau County, Criminal & Civil Parts in Queens County, Criminal & Civil Parts in New York County, Criminal Part in Bronx County, Criminal Part in Orange County, Criminal Part in Monroe County; Pittsburgh County Court, State of Oklahoma (*Oklahoma v. Terry Nichols*); Superior Court State of Connecticut : Criminal Part in Hartford; Superior Court State of New Jersey : Criminal Part in Middlesex County; Superior Court State of Tennessee : Criminal Part in 3<sup>rd</sup> District, Greene County; Henrico County Circuit Court, Criminal Part, Commonwealth of Virginia; District Court County of Suffolk; Grand Jury in the County of Suffolk; Suffolk County Police Department Trial Bureau.

# CONTINUING EDUCATION AND SEMINARS

Fundamentals of Forensic Metrology : Introduction to Traceability, Measurement Assurance, Uncertainty Concepts ;  
 Heusser Newweigh, LLC / NYS DCJS : 2011  
 Ethics for Forensic Scientist ; Barnet/NYS DCJS : 2010  
 Scientifically Defensible Criteria for the Identification of Toolmarks ; Murook & Moran/NYS DCJS : 2010  
 Forensic Scientist Criminal Trial Training ; New York Prosecutors Training Institute, Inc. : 2010  
 W & H Stampings, Inc. : Manufacture of Products - 2009  
 ATF - U.S. DOJ : Testifying as an Expert Witness in Federal Court for Firearm and Tool Mark Examiners : 2008  
 Watervliet Arsenal : Manufacturing of Products : 2008  
 Hi-Point Firearms (Tom Deeb) : Hi-Point Firearms Familiarization Course : 2008  
 Tooling Enterprises : Manufacture of Parts for SWD / Cobray : 2008  
 Outokumpu-American Brass Factory : Manufacture of Cartridge Brass & Copper Materials : 2006  
 ATF : Identification of Disguised Weapons : 2005  
 Forensic Identification Training, LLC : Advanced Shooting Incident Reconstruction : 2005  
 Theory of Identification & Fracture Match Comparisons : 2003  
 A.T.F./Forensic Technology : NIBIN-IBIS : 2001 & 2002  
 Forensic Identification Training, LLC : Shooting Incident Reconstruction : 2000  
 F.B.I./M.S.L.-Nichols Research : DRUGFIRE National Training Center : 1998  
 Enigma Analytical : Basic Statistics for Analytical Science : 1998  
 Glock Inc. : Armorer's Course : 1998  
 Smith & Wesson Firearms Co. : Manufacturing of Products : 1998  
 DRUGFIRE National User's Group Meeting : 1996  
 Mnemonic Systems Incorporated : DRUGFIRE System : 1996  
 Adelphi University : Laboratory Safety : 1992 & 93  
 F.B.I. Teleconference : Wound Ballistics : Participant : 1989  
 Cornell Univ. School of Industrial & Labor Relations : O.S.H.A. Regs. & Biohazards Relative to Health Care Workers : 1988  
 B. Leitz & Co. : Forensic Microscopy : 1983 & 1981  
 Remington Arms Co. : Manufacturing of Products : 1981  
 Winchester Firearms Co. : Manufacturing of Products : 1981  
 Marlin Firearm Co. : Manufacturing of Products : 1979  
 University of Connecticut, Continuing Education Services in conjunction with McCrone Research Institute : Advanced Forensic  
 Microscopy : 1978  
 University of Connecticut, Continuing Education Services : Forensic Microscopy : 1977  
 University of Virginia in conjunction with F.B.I. Academy : Advanced Methods of Bloodstain and Physiological Fluid Analysis :  
 1976  
 New Jersey State Identification Association : Crime Scene Handling of Explosion and Airplane Disasters : 1976  
 Perkin - Elmer Corp. : Gas Chromatography : 1975

# LECTURER:

John Jay College of Criminal Justice, Science Department; Adjunct Professor; Forensic 811-01, Graduate Course "Scientific Firearms & Toolmark Examination"; 1996 - 2008  
 FBI / National Academy Association, "DRUGFIRE / NIBIN, The State of the Art of Firearm & Toolmark Examination"  
 Suffolk County Police Department; Instructor; Advanced Investigator's School & Police Academy; "Firearm & Toolmark Examination, The State of the Art"; Crime Scene Personnel; "Firearms Evidence, Recovery, Handling & Safety"; "Firearms Evidence at The Crime Scene"; Shooting Crime Scene Reconstruction; "Firearm Evidence & Transfer DNA Collection Workshops"  
 Suffolk County District Attorneys; "Firearm & Toolmark Examination, The State of the Art", "Firearms Handling & Safety"  
 Suffolk County Medical Examiners Office, Crime Laboratory; "Firearms Handling & Safety"  
 New England Firearm Examiner's; "Drill Bit Toolmark Comparisons", "DRUGFIRE Method Validation", "NanoTag Markings - From Another Perspective"  
 National Shooting Sports Foundation & NRA/ILA, "Ballistic Fingerprinting"  
 The Legal Aid Society & Benjamin N. Cardozo School of Law, "Forensic Firearms & Toolmark Examinations"  
 New Jersey State Division of The International Association for Identification, "NIBIN/IBIS Method Validation", "Distance Determinations"  
 Suffolk County Bar Association, "Scientific Firearm & Toolmark Examinations, The State of The Art & Science"  
 Suffolk County Academy of Law, "Scientific Firearm & Toolmark Examinations, Understanding its' Capabilities and Limitations, From The Crime Scene Thru Laboratory Analysis"  
 New York State Firearm Examiners Technical Working Group; "NIBIN/IBIS Method Validation"; "NanoTag Markings - From Another Perspective"; "Multiple Overlapping Firing Pin Impacts From a Single Trigger Pull Commonly Occur - An Explanation"; "NYSPL Categorizes Certain Pistols as Assault Weapons and Inadvertently Some Are Being Licensed in NYS"; "Addressing The Question of Microscopic Comparison Error Rates"; "Pipe/Tubing Cutters Are Capable of Generating Toolmarks Suitable for Identification"; "Fracture Match or Toolmark Examination"; "The Forensic Examination of TASERS in Death in Custody Cases"; "The Father's Day Pharmacy Murders - The Failure of COBIS"  
 New Jersey Association of Forensic Scientist; "Crime Scene Shooting Reconstruction"  
 Suffolk County Association of Forensic Odontologist; "Scientific Firearm & Toolmark Examination - State of the Art & Science"

## PUBLICATIONS & NATIONAL PRESENTATIONS:

The American Journal of Forensic Medicine and Pathology, "Open Revolver Cylinder at the Suicide Death Scene", Volume 23, No. 3, July 2002 (Co-authored).  
 Association of Firearm & Tool Mark Examiners Journal, "One in a Million Firearms Accident", Volume 25 Number 3 July 1993.  
 Association of Firearm & Tool Mark Examiners Journal, "NanoTag Markings - From Another Perspective", Volume 38 Number 1 Winter 2006.  
 40<sup>th</sup> Annual Association of Firearm & Toolmark Examiners Training Seminar, "Multiple Overlapping Firing Pin Impacts the Result of a Single Trigger Squeeze Commonly Occur", Miami Beach - June 2009

## CERTIFICATIONS:

Certified Instructor; National Rifle Association; Rifle, Pistol, and Shotgun Marksmanship, Firearm Safety; 1974 to Present.

## PROFESSIONAL AFFILIATIONS:

New York State, Technical Working Group / Firearms - Member appointed by NYS/DCJS  
 Association of Firearm & Tool Mark Examiners - Life Member, Dinosaur Club Member  
 National Rifle Association - Life Member



-----X  
POLICE DEPARTMENT  
COUNTY OF NASSAU, NEW YORK

-against-

Case No. 8118  
Charges and Specifications

ANTHONY DILEONARDO  
POLICE OFFICER, SERIAL NO. 9013  
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The Nassau County Police Department, on the complaint of Inspector Edward C. Dordon, Serial Number 6387, alleges on information and belief that Police Officer Anthony DiLeonardo, Serial Number 9013, violated the Rules of the Police Department of the County of Nassau, New York, in that the respondent did:

1. On February 27, 2011, at about 0115 hours, at Oakwood Road and Tippen Drive, Huntington, New York, engage while off duty in unlawful conduct, in that Police Officer DiLeonardo intentionally and without justification shot Thomas Moroughan twice with his .38 caliber Smith & Wesson revolver. Mr. Moroughan was struck once in the chest and once in his left arm. His injuries caused him substantial pain and required medical treatment at a hospital. At the time of the shooting Mr. Moroughan was operating a 2010 Toyota Prius, New York State Registration Number # 13100TY, with a female occupant in the front passenger seat. Pursuant to New York State Penal Law § 120.05(2), Police Officer DiLeonardo's actions constitute the crime of Assault in the Second Degree which is a Class D felony. This is in violation of Article 5, Rule 2, Subdivision 1.
2. On February 27, 2011, at about 0115 hours, at Oakwood Road and Tippen Drive, Huntington, New York, engage while off duty in unlawful conduct, in that Police Officer DiLeonardo intentionally and without justification fired his .38 caliber Smith & Wesson revolver at a 2010 Toyota Prius, New York State Registration Number # 13100TY, operated by Thomas Moroughan with a female occupant in the front passenger seat. Police Officer DiLeonardo fired his revolver five (5) times. Mr. Moroughan was struck once in the chest and once in his left arm and one round struck the rear seat armrest of the Toyota. The car's passenger ducked down when the shooting commenced and was not struck. Pursuant to New York State Penal Law § 120.25, Police Officer DiLeonardo's actions constitute the crime of Reckless Endangerment in the First Degree which is a Class D felony. This is in violation of Article 5, Rule 2, Subdivision 1.



3. On February 27, 2011, at about 0115 hours, at Oakwood Road and Tippen Drive, Huntington, New York, engage while off duty in unlawful conduct, in that Police Officer DiLeonardo without justification struck Thomas Moroughan in the face with his .38 caliber Smith & Wesson revolver. The blow broke Mr. Moroughan's nose, caused him substantial pain and required medical treatment at a hospital. At the time of the incident Mr. Moroughan was sitting in the driver's seat of a stopped Toyota Prius, New York State Registration Number # 13100TY. Pursuant to New York State Penal Law § 120.05(2), Police Officer DiLeonardo's actions constitute the crime of Assault in the Second Degree which is a Class D felony. This is in violation of Article 5, Rule 2, Subdivision 1.
4. On February 27, 2011, at about 0115 hours, at Oakwood Road and Tippen Drive, Huntington, New York, engage while off duty in unlawful conduct, in that Police Officer DiLeonardo intentionally caused damage in excess of one thousand five hundred dollars (\$ 1,500.00) to a 2010 Toyota Prius, New York State Registration Number # 13100TY, being operated by Thomas Moroughan. Police Officer DiLeonardo fired his .38 caliber Smith & Wesson revolver five (5) times at the motor vehicle. Three of the shots entered the passenger compartment. Once the Toyota stopped moving Police Officer DiLeonardo then broke the driver's side window with his revolver. Pursuant to New York State Penal Law § 145.10, Police Officer DiLeonardo's actions constitute the crime of Criminal Mischief in the Second Degree which is a Class D felony. This is in violation of Article 5, Rule 2, Subdivision 1.
5. On February 27, 2011, at about 0115 hours, at Oakwood Road and Tippen Drive, Huntington, New York, engage while off duty in unlawful conduct, in that Police Officer DiLeonardo for no legitimate reason while operating a 2011 Infiniti, New York State Registration Number # FHP1567, shined his high beams at and aggressively cut off a 2010 Toyota Prius, operated by Thomas Moroughan. These actions caused Mr. Moroughan to drive onto the shoulder of the road. Pursuant to New York State Vehicle and Traffic Law § 1212, Police Officer DiLeonardo's actions constitute Reckless Driving which is a Misdemeanor. This is in violation of Article 5, Rule 2, Subdivision 1.
6. On February 27, 2011, at about 0115 hours, at Oakwood Road and Tippen Drive, Huntington, New York, engage in conduct unbecoming an officer of the Department, or in any action which may be prejudicial to the good order and efficiency of the Police Department, in that Police Officer DiLeonardo for no legitimate reason while operating a 2011 Infiniti, New York State Registration Number # FHP1567, shined his high beams at and aggressively cut off a 2010 Toyota Prius, operated by Thomas Moroughan. This is in violation of Article 5, Rule 1 Subdivision 2.



7. On February 27, 2011, at about 0115 hours, at Oakwood Road and Tippen Drive, Huntington, New York, engage in conduct unbecoming an officer of the Department, or in any action which may be prejudicial to the good order and efficiency of the Police Department, in that Police Officer DiLeonardo while operating a 2011 Infiniti, New York State Registration Number # FHP1567, engaged in a heated verbal argument with Thomas Moroughan the driver of a 2010 Toyota Prius. This is in violation of Article 5, Rule 1, Subdivision 2.
8. On February 27, 2011, at about 0115 hours, at Oakwood Road and Tippen Drive, Huntington, New York, engage in conduct unbecoming an officer of the Department, or in any action which may be prejudicial to the good order and efficiency of the Police Department, in that Police Officer DiLeonardo escalated a verbal argument with Thomas Moroughan into a physical confrontation. This is in violation of Article 5, Rule 1, Subdivision 2.
9. On February 27, 2011, at about 0115 hours, at Oakwood Road and Tippen Drive, Huntington, New York, become unfit for duty by reason of intoxicants, in that Police Officer DiLeonardo, consumed at least six (6) alcohol drinks during a 4.5 hour period immediately preceding a verbal argument he had with Thomas Moroughan. Police Officer DiLeonardo's intoxicated condition caused the verbal altercation to escalate into a physical confrontation. This is in violation of Article 5, Rule 7, Subdivision 1.
10. On February 27, 2011, at about 0115 hours, at Oakwood Road and Tippen Drive, Huntington, New York, fire shots from a moving vehicle or at a moving vehicle without such member or a third person being in imminent danger of death or serious physical injury, without such member being in a position whereby he may reasonably fire an accurate shot at the assailant, without being legally justified in using deadly physical force and with innocent bystanders likely to be injured by an inaccurate shot or ricochet, in that Police Officer DiLeonardo fired with his .38 caliber Smith & Wesson revolver five (5) times at a 2010 Toyota Prius, New York State Registration Number # 13100TY, operated by Thomas Moroughan and with a female occupant in the front passenger seat. Immediately prior to the shooting Police Officer was engaged in a heated argument with Mr. Moroughan. This is in violation of Article 5, Rule 16, Subdivision 2.

-----X  
POLICE DEPARTMENT  
COUNTY OF NASSAU, NEW YORK

-against-

Affidavit of Service

ANTHONY DILEONARDO  
POLICE OFFICER, SERIAL NO. 9013  
-----X

State of New York )  
County of Nassau )

Ralph Hoffman, being duly sworn, deposes and says:

1. I am a Detective Lieutenant assigned to the Internal Affairs Unit of the Nassau County Police Department.
2. On August 22, 2012, at 4:00 p.m., I served the annexed thirteen (13) PDCN 210's dated August 22, 2012 upon Police Officer Anthony DiLeonardo by delivering a copy of same to Inspector Sean McCarthy, Commanding Officer of the Third Precinct, 214 Hillside Avenue Williston Park, New York 11596.
3. The place at which service was made is Police Officer Anthony DiLeonardo's assigned command (actual place of business).
4. On August 22, 2012, at 4:30 p.m., I also mailed copies of the thirteen (13) PDCN 210's, in a plain envelope with no return address, marked "personal and confidential" to Anthony DiLeonardo, 168 Toronto Avenue Massapequa, New York 11758, which is his address on file with the Department.

*Ralph Hoffman*  
Ralph Hoffman

Sworn to before me this 22 day of  
August, 2012.  
*Lesli P. Hiller*  
Notary Public

LESLI P. HILLER  
Notary Public, State of New York  
No. 30-4973777  
Qualified in Nassau County  
Commission Expires Oct. 29, 2014